



**Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of the Wisconsin Pollutant Discharge
Elimination System Permit No. WI-0031526-08-0
(WPDES Permit) Re-issued to the Eagle Lake
Sewer Utility

Case No. DNR-17-0005

NOTICE OF PREHEARING CONFERENCE

On September 27, 2013, the Department of Natural Resources (DNR) reissued WPDES Permit No. WI-0031526-08-0 to the Eagle Lake Sewer Utility, to discharge from a facility located at 25300 Kickapoo Drive to an unnamed tributary to Eagle Creek, which is tributary to the Southeast Fox River in Racine County, Wisconsin.

On November 19, 2013, the Eagle Lake Sewer Utility District filed a Petition for a Contested Case Hearing with the DNR to review the reasonableness of and necessity for certain terms in the permit, pursuant to Wis. Stat. § 283.63, Wis. Admin. Code. Ch. NR 2, and Wis. Admin. Code. §§ 203.14 to NR. 203.20.

By letter dated December 15, 2014, the DNR granted the request for contested case hearing and limited the hearing to the following issues:

1. Whether it was unreasonable for the DNR to include water quality based effluent limits (WQBELs) for phosphorus and a compliance schedule (in sections 2.2.1, 2.2.1.2, 2.2.1.3, and 4.1 of the permit) based on downstream impacts.
2. Whether it was unreasonable for the DNR to include a final phosphorus water quality based effluent limitation in the permit and compliance schedule if the City may choose to seek a variance to the phosphorus WQBEL.
3. Whether it was reasonable for the DNR to express the phosphorus water quality based effluent limitation as a six-month average concentration in the permit.
4. Whether it was reasonable for the DNR to calculate WQBELs for ammonia in section 2.2.1 of the permit based on a downstream fish and aquatic life classification.

On May 30, 2017, the Division of Hearings and Appeals received a Request for Hearing from the DNR.

NOTICE IS HEREBY GIVEN that the State of Wisconsin Division of Hearings and Appeals will hold a prehearing conference on the above-captioned matter pursuant to Wis. Stat. §§ 227.44, Wis. Admin. Code § NR 2.08(5), and Wis. Admin. Code § NR 2.12, **at 9:30 AM on August 14, 2017**, at the offices of the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, Wisconsin. Any person, organization or governmental unit wishing to become a party to this proceeding must appear at the conference in person or by an authorized representative. The purpose of the prehearing conference will be to identify parties to the proceeding, to simplify or clarify the issues which may be contested at the hearing, identify witnesses, discuss the exchange of exhibits, establish a discovery schedule, address any other matters as may aid in the disposition of the action, and schedule a date for the contested case hearing. No testimony will be heard at the prehearing conference; however, a date may be set for a contested case hearing.

If a contested case hearing is scheduled, it will be a Class 1 contested case pursuant to Wis. Stat. § 227.01(3)(a). The procedures set forth in Wis. Stat. § 283.63(1)(b) and the procedures relating to contested cases set forth in Wis. Admin. Code Ch. NR. 2 will be followed. The procedures that will be followed at the contested case hearing will closely resemble those that are normally followed at a trial in State circuit court. All parties are advised that they have the right to seek the aid and assistance of legal counsel and to be represented by legal counsel at the contested case hearing.


The permits, petitions and other information relating to the petitioner are on file and may be inspected and copied at the offices of the Department of Natural Resources, 101 South Webster Street, Madison, Wisconsin, between the hours of 9:00 a.m. and 3:30 p.m., Monday through Friday, holidays excepted. Copies of documents on file for the applicant may be obtained by writing to the Department of Natural Resources, WPDES Permit Section, P.O. Box 7921, Madison, Wisconsin, 53707-7921. Reasonable costs will be charged for copies of all information excluding public notices and fact sheets.

Pursuant to the Americans With Disabilities Act, reasonable accommodations will be made to any qualified individual upon request. Please call the Division of Hearings and Appeals at (608) 266-3865 with specific information on your request prior to the date of the scheduled prehearing or hearing.

Dated at Milwaukee, Wisconsin on June 13, 2017.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
819 North 6th Street, Suite 92
Milwaukee, Wisconsin 53203
Telephone: (414) 227-5141
FAX: (414) 227-3818

By


ERIC D. DEFORT
ADMINISTRATIVE LAW JUDGE